

REMARKS/ARGUMENTS

Claims 1-51 are canceled without prejudice.

New claims 52-79 are pending. No new matter has been introduced.

Applicants believe the claims comply with 35 U.S.C. § 112. For instance, the new claims do not include the "ratio of determinants" language objected to by the Examiner and the claims no longer state "apparatus" when method is meant.

Claims 1-8, 29-34, 36, 38, 40-45, 47, 49, and 51 stand rejected under 35 U.S.C. § 102(e) as anticipated by Wittwer (US 6303305). This rejection is now construed to apply to claims 52-79. Applicants request reconsideration of the rejection in view of the following arguments.

Claims 52-63

Applicants respectfully submit that independent claim 52 is novel and patentable over Wittwer because, for instance, Wittwer does not disclose or suggest the steps of determining if the positive peak of the derivative of the growth curve exceeds a threshold level, and if the positive peak exceeds the threshold level, then calculating the threshold value corresponding to the positive peak of the derivative.

For at least the foregoing reasons, claim 52 and claims 53-63 depending therefrom are patentable.

Claims 64-71

Applicants respectfully submit that independent claim 52 is novel and patentable over Wittwer because, for instance, Wittwer does not disclose or suggest the steps of determining if the signal value defining the growth curve at the zero-crossing of the second derivative of the growth curve exceeds a threshold level, and if the signal value defining the growth curve at the zero-crossing exceeds the threshold level, then calculating the threshold value corresponding to the zero-crossing.

For at least the foregoing reasons, claim 64 and claims 65-71 depending therefrom are patentable.

Claims 72-79

Applicants respectfully submit that independent claim 72 is novel and patentable over Wittwer because, for instance, Wittwer does not disclose or suggest the steps of determining if the signal value defining the growth curve at the negative peak of the second derivative exceeds a threshold level, and if the signal value defining the growth curve at the negative peak exceeds the threshold level, then calculating the threshold value corresponding to the negative peak.

For at least the foregoing reasons, claim 72 and claims 73-79 depending therefrom are patentable.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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